

December 16, 1997

The Honorable Robert E. Rubin, Secretary  
US Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington DC 20220

CR  
12/16/97

Dear Secretary Rubin:

The undersigned community, consumer, labor and faith-based organizations are writing to express our concerns about the impact of the Treasury Department's proposed regulations on EFT '99 (31 CFR 208) on low and moderate income recipients of federal benefits and the communities in which they live. We share your belief that EFT '99 can be a vehicle for bringing people who are currently "unbanked" or "underbanked" into the financial mainstream. However, unless EFT '99 is implemented properly, it may actually harm this group by increasing their cost of conducting financial transactions and exposing them to high cost and high risk service providers. In order to avoid this result, we believe that the final EFT '99 regulations and plans must address four critical issues:

**1. Waivers.** We applaud the proposal to make eligibility for waivers a matter of self-certification. This will help to minimize the regulatory burden for people who are eligible, and prefer, to continue to receive paper checks. However, the grounds for providing waivers are far too limited. Financial hardship waivers should be available to anyone who finds it too expensive to use a bank account to receive their federal benefits, not just those without accounts. Further, in addition to waivers based on financial hardship, physical disability and geographic barriers, Treasury should also allow waivers for those to whom electronic transfer will cause a hardship because of mental disability, problems with literacy, or other language barriers. In contemplating eligibility for waivers, recipients' ability to understand how direct deposit works and use the electronic access devices is not the only consideration. In addition, Treasury must also consider whether the recipient will be able to navigate whatever systems are set up for resolving problems. Some people may be able to manage one part of the process but not the other, and they should be eligible for waivers.

**2. Electronic transfer (ETA) accounts.** We applaud Treasury's decision to provide default (ETA) accounts only through insured depository institutions. However, this action alone does not achieve the goal of bringing those recipients who wish to be into the financial mainstream. Treasury should also prohibit banks from subcontracting access to ETA accounts through non-bank, unregulated entities. Further, unless ETA accounts are affordable and meet consumers' needs, recipients will simply withdraw cash from their ETA accounts and continue to use high-cost "fringe banks." And, Treasury should make ETA accounts available to all recipients of federal benefits who request them, whether or not they have another bank account.

**Fees.** The fees for the ETA account must be reasonable given the limited financial resources of many people who will be using these accounts. It would be a real travesty to implement a law that saves the government \$100 million or more a year while placing undue

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burdens on millions of low and moderate income people, many of whom now have free or low cost methods of handling their federal benefits.

**Account features.** In order to meet customers' needs, ETA accounts must accept other deposits so consumers can manage income from other sources and accumulate savings. They must make it possible for customers to move funds out of the account by means other than electronic transfer, because many low and moderate income people cannot handle all their routine financial transactions electronically. ETA accounts must be easily accessible through a ubiquitous network of ATMs and POS devices at no cost to recipients. The accounts must provide information so that consumers can track account activity and responsibly manage their finances.

**Consumer protection and support.** Treasury must insure that all consumer protections generally provided to account holders at insured depository institutions apply to ETA accounts, including Regulation E. Further, ETA providers must establish systems for customer support that are easy to access and enable account holders to resolve disputes, replace lost cards, and change PIN numbers when necessary.

**3. Voluntary accounts.** Many of the concerns that led Treasury to limit ETA accounts to insured depository institutions also apply to accounts that recipients set up voluntarily to receive their federal benefits electronically. Partnerships are beginning to emerge between banks and check cashers, where funds are deposited into the bank, but the customer goes to the check casher to receive a paper check. The customer pays to have the account, receive the check, and cash the check, as well as for any money orders or other services he or she may purchase. Not only are such accounts a bad deal for the customer, but they do not provide the reasonable cost and consumer protections called for by the statute. Nor do they provide the consumer with the safety, convenience and reliability that Treasury is touting for EFT '99. This is clearly not the system that Congress envisioned when it mandated electronic delivery of federal payments. Such arrangements exist because Treasury has not used its authority to regulate accounts that are established voluntarily to allow for electronic receipt of federal benefits. It is vital that Treasury act to fill this void. This is a particular concern in the next two years, when the ETA alternative is not available. Thus, immediate action is required to address this problem.

**4. Public education campaign.** The Treasury Department is preparing to launch an ambitious public education campaign, aimed at encouraging recipients of federal benefits to opt for direct deposit. This campaign will be counterproductive, indeed it will do more harm than good, unless it informs people of all of their options, including seeking a waiver, obtaining an ETA account through Treasury, and continuing to receive a paper check until ETA accounts become available. Unless this message is clear, people outside the financial mainstream will be vulnerable to the abusive practices of fringe bankers, like those described above. They will have no assurance that they can access their federal benefits through an insured and regulated financial institution, may be subject to exorbitant costs, and may not have the benefit of federally established consumer protections for their accounts.

We urge you to take action on these issues, and insure that EFT '99 does not become a boon for the federal government but a boondoggle for those who receive federal payments. Thank you for your attention to this matter.

Sincerely,

Americans for Democratic Action  
Association of Community Organizations for  
Reform Now (ACORN)  
Bazelon Center for Mental Health Law  
California Reinvestment Committee  
Campaign for America's Future  
Center for Community Change  
Center for Law & Social Policy  
Center for Women Policy Studies  
Child Welfare League of America  
Consumer Federation of America  
Council of Jewish Federations  
Enterprise Foundation  
General Board of Church and Society, United  
Methodist Church  
Housing Assistance Council  
Jesuit Conference  
Local Initiatives Support Corporation  
Lutheran Office for Governmental Affairs,  
ELCA  
McAuley Institute  
National Alliance to End Homelessness  
National Association for the Advancement of  
Colored People (NAACP)  
National Association of Community Action  
Agencies  
National Association of Social Workers  
National Association of WIC Directors  
National Coalition for the Homeless  
National Community Reinvestment Coalition

National Congress for Community Economic  
Development  
National Consumer Law Center  
National Council of La Raza  
National Council of Senior Citizens  
National Council of Women of the US, Inc.  
National Housing Law Project  
National Law Center on Homelessness &  
Poverty  
National Low Income Housing Coalition  
National Neighborhood Coalition  
National Peoples' Action  
National Puerto Rican Coalition, Inc.  
National Urban League  
National Women's Law Center  
NETWORK: A National Catholic Social  
Justice Lobby  
Organization for a New Equality (O.N.E.)  
Seedco  
Service Employees International Union, AFL-  
CIO, CIC  
Surface Transportation Policy Project  
Union of Needletrades, Industrial & Textile  
Employees  
US Public Interest Research Group (PIRG)  
The Arc of the United States  
Weifare Law Center  
Women Work!  
Woodstock Institute  
World Hunger Year

CC: John D. Hawke, Under Secretary of the Treasury for Domestic Finance  
Cynthia Johnson, Director, Cash Management Policy and Planning Division  
Gene Sperling, Director of the National Economics Council